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15

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 24 2015

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 UNITED STATES OF AMERICA,

11 Plaintiff,
12 vs.

13 SCOTT CARL JOHNSON,

14 Defendant.
15

Case No. 4:15-CR-6042-SMJ

PLEA AGREEMENT

Filed Under Seal *mwd* *KJL* *SS*

16 Plaintiff United States of America, by and through Michael C. Ormsby, United
17 States Attorney for the Eastern District of Washington, Mary K. Dimke, Assistant
18 United States Attorney, Karla G. Perrin, Special Assistant United States Attorney, for
19 the Eastern District of Washington, Adam C. Cullman, Trial Attorney, Environmental
20 Crimes Section, U.S. Department of Justice, and Defendant, SCOTT C. JOHNSON,
21 and the Defendant's counsel, Kevin J. Curtis, agree to the following Plea Agreement:

22 1. Waiver of Indictment:

23 Defendant, having been advised of the right to be charged by Indictment, agrees
24 to waive that right and enter pleas of guilty to the charges brought by the United States
25 in an Information.
26
27

1 2. Guilty Pleas and Maximum Statutory Penalties:

2 The Defendant agrees to plead guilty to Count 1 of the Information, charging
3 Defendant with Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. § 1349,
4 and to Count 2 of the Information, charging Defendant with Conspiracy to Defraud
5 the Government by Obtaining False, Fictitious, and Fraudulent Claims for Income Tax
6 Refunds, in violation of 18 U.S.C. § 286.

7 The Defendant understands that the maximum statutory penalty for Conspiracy
8 to Commit Wire Fraud, in violation of 18 U.S.C. § 1349, is a term of imprisonment
9 not to exceed twenty (20) years; a fine not to exceed \$250,000; or both; a three (3)-
10 year term of supervised release; and a \$100 special penalty assessment.

11 The Defendant understands that the maximum statutory penalty for Conspiracy
12 to Defraud the Government by Obtaining False, Fictitious, and Fraudulent Claims for
13 Income Tax Refunds, in violation of 18 U.S.C. § 286, is a term of imprisonment not to
14 exceed ten (10) years; a fine not to exceed \$250,000; or both, a three (3)-year term of
15 supervised release; and a \$100 special assessment.

16 The Defendant understands that a violation of a condition of supervised release
17 carries an additional penalty of re-imprisonment for all or part of the term of
18 supervised release without credit for time previously served on post-release
19 supervision.

20 3. The Court is Not a Party to the Agreement:

21 The Court is not a party to this Plea Agreement and may accept or reject this
22 Plea Agreement. Sentencing is a matter that is solely within the discretion of the
23 Court. The Defendant understands that the Court is under no obligation to accept any
24 recommendations made by the United States and/or by the Defendant; that the Court
25 will obtain an independent report and sentencing recommendation from the U.S.

1 Probation Office; and that the Court may, in its discretion, impose any sentence it
2 deems appropriate up to the statutory maximums stated in this Plea Agreement.
3

4 The Defendant acknowledges that no promises of any type have been made to
5 the Defendant with respect to the sentence the Court will impose in this matter. The
6 Defendant understands that the Court is required to consider the applicable sentencing
7 guideline range, but may depart upward or downward under the appropriate
8 circumstances.
9

10 The Defendant also understands that should the sentencing judge decide not to
11 accept any of the parties' recommendations, that decision is not a basis for
12 withdrawing from this Plea Agreement or a basis for withdrawing this plea of guilty.
13

14 4. Waiver of Constitutional Rights:

15 The Defendant understands that by entering these pleas of guilty the Defendant
16 is knowingly and voluntarily waiving certain constitutional rights, including:
17

18 a. The right to a jury trial;
19 b. The right to see, hear and question the witnesses;
20 c. The right to remain silent at trial;
21 d. The right to testify at trial; and
22 e. The right to compel witnesses to testify.
23

24 While the Defendant is waiving certain constitutional rights, the Defendant
25 understands the Defendant retains the right to be assisted through the sentencing and
26 any direct appeal of the conviction and sentence by an attorney, who will be appointed
27 at no cost if the Defendant cannot afford to hire an attorney. The Defendant also
28 acknowledges that any pretrial motions currently pending before the Court are waived.
29

1 5. Elements of the Offense:

2 The United States and the Defendant agree that in order to convict the
3 Defendant of Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. § 1349, the
4 United States must prove each of the following elements beyond a reasonable doubt:

5 First: There was an agreement between two or more persons to commit
6 wire fraud as charged in the Information; and
7 Second: The defendant became a member of the conspiracy knowing of at
8 least one of its objects and intending to help accomplish it.

9 The United States and the Defendant agree that in order to convict the
10 Defendant of Conspiracy to Defraud the Government by Obtaining False, Fictitious,
11 and Fraudulent Claims for Income Tax Refunds, in violation of 18 U.S.C. § 286, the
12 United States must prove each of the following elements beyond a reasonable doubt:

13 First: Defendant knowingly entered into an agreement with others to
14 defraud the United States or a department or agency of the United
15 States, as charged in the Information;
16 Second: By obtaining payment or allowance of materially false, fictitious,
17 or fraudulent claims, as charged in the Information.

18 6. Factual Basis and Statement of Facts:

19 The United States and the Defendant stipulate and agree that the following facts
20 are accurate; that the United States could prove these facts beyond a reasonable doubt
21 at trial; and that these facts constitute an adequate factual basis for the Defendant's
22 guilty pleas:

23 Gen-X Energy Group (Gen-X), a renewable energy company, was
24 headquartered in Pasco Washington and operated a renewable fuel production facility
25 in Moses Lake, Washington. Gen-X also maintained a renewable fuel facility through
26 its subsidiary, Southern Resources and Commodities (SRC), which was located in

1 Georgia. Defendant was the President of Gen-X and was also a corporate officer for
2 SRC.

3 Defendant admits that from approximately October of 2012 to approximately
4 April of 2015, Defendant agreed with others to participate in a scheme to falsely claim
5 the production of renewable fuel at the GEN-X facilities for which renewable
6 identification numbers (RINs) were fraudulently generated through the on-line
7 "EMTS" system. Throughout this period, much of the fuel claimed to be produced at
8 the facilities was either not produced or it was re-processed through the facilities
9 multiple times. Thus, the resulting RINs generated on this fuel were fraudulent and
10 were subsequently sold fraudulently in an effort to obtain proceeds to which GEN-X
11 and the conspirators were not entitled. Defendant and his conspirators also agreed to
12 cause Gen-X to file false tax refund claims with the IRS, specifically "Claims for
13 Refunds of Excise Taxes", for fuel that was either not produced or had been re-
14 processed multiple times.

15 Defendant admits that the conspirators used a circular scheme whereby
16 "feedstock" was reprocessed multiple times and RINs were fraudulently generated
17 each time the "feedstock" was reprocessed. To carry out the scheme, GEN-X
18 procured "feedstock" for renewable fuel from other conspirators who bought GEN-
19 X's renewable fuel "product" and sold that "product" back to GEN-X as a
20 "feedstock." Thus, rather than generating new renewable fuel with each batch of
21 feedstock, the same product was simply being re-circulated through the GEN-X
22 facilities. Prior to selling the "fuel" to customers, GEN-X caused a RIN to be
23 electronically generated through EMTS for each gallon of renewable fuel and then
24 separated the RINs from the renewable fuel. The RINs and the RIN-stripped
25 renewable fuel were then each sold separately to different GEN-X customers.
26 Defendant and the other conspirators participated in this scheme knowing that the
27

1 purpose was to defraud those purchasing RINs from GEN-X, as well as the U.S.
2 government.

3 As part of the scheme, the conspirators established various shell companies in
4 order to create the appearance of false purchases of feedstock by Gen-X and SRC, to
5 create the appearance of sales of renewable fuel to third parties, when such sales never
6 took place, and to conceal the transfer of the proceeds of the fraudulent scheme
7 between and among the conspirators.

8 As part of the scheme, the conspirators created false records, such as false
9 invoices from Gen-X or SRC to other entities purporting to show the sale of
10 renewable fuel; false invoices to Gen-X and SRC purporting to show the purchase of
11 feedstock needed for the production of advanced biofuel, and false bills of lading
12 purporting to show the transportation of renewable fuel and feedstock by tanker truck.

13 In furtherance of the fraudulent scheme, the conspirators used and caused others
14 to use interstate wire communications. For example, the conspirators caused Gen-X
15 to make interstate electronic submissions to the EMTS system to generate the
16 fraudulent RINs. The conspirators caused Gen-X to pay for fraudulent feedstock
17 purchases via wire transfers from their bank located in the Eastern District of
18 Washington to the shell companies' bank accounts, some of which were out of state.

19 As a result of the scheme to defraud, from approximately October of 2012 to
20 April of 2015, the conspirators fraudulently generated at least 72 million
21 RINs that were based on renewable fuel that was either never produced or
22 was re-processed at the GEN-X facilities.

23 These RINs were then sold to a third-party broker, who wired money
24 to Gen-X and SRC to purchase the fraudulent RINs. Gen-X received
25 payments via wire transfer from an out of state bank to Gen-X's bank account, which
26

1 bank was located in the Eastern District of Washington. From approximately
2 October of 2012 to April of 2015, GEN-X received at least \$57 million for
3 the sale of fraudulent RINs. Defendant admits that the vast majority of his
4 salary, bonuses, and compensation were derived from the proceeds of the
5 fraud and money laundering scheme.

6 From approximately October of 2012 to April of 2015, Defendant and
7 his conspirators agreed to and did cause Gen-X to file Claims for Refunds
8 of Excise Taxes (using IRS Form 8849) with associated Schedule 3 Forms
9 with the U.S. Department of the Treasury, IRS, when they knew that the
10 claims were false. The Schedule 3 Forms claimed that Gen-X
11 manufactured “Liquid fuel derived from biomass,” when Defendant and
12 his conspirators knew that Gen-X did not produce such fuel and the
13 purchasers of the “fuel” were shell companies set up to perpetuate the
14 fraud claims, not legitimate purchasers of renewable fuel.

15 As part of the scheme, Defendant and his conspirators caused Gen-X
16 to apply to the IRS for the Alternative Fuel Tax Credit for 19,034,825
17 gallons of renewable fuel that was never actually produced and thus never
18 actually sold. As a result of the false claims, the IRS paid Gen-X
19 approximately \$9,517,412.50, to which Gen-X had no valid claim.

20 This statement of facts does not preclude either party from presenting and
21 arguing, for sentencing purposes, additional facts which are relevant to the guideline
22 computation or sentencing, unless otherwise prohibited in this agreement.

23 7. Cooperation:

24 The Defendant agrees to cooperate completely and truthfully with the United
25 States as follows:

1 a. Debriefings:

2 The Defendant agrees to participate in full debriefings by federal and local
3 investigative agencies about all the Defendant's knowledge of illegal conduct, at times
4 and places to be decided by these agencies. The Defendant agrees to provide
5 complete, accurate and truthful information to these agencies. The Defendant agrees
6 to not falsely implicate any person or entity and agrees to not protect any person or
7 entity through false information or omission.

8 It is understood that the Defendant may have an attorney present at any or all
9 such debriefings.

10 b. Testimony:

11 The Defendant agrees to testify completely and truthfully at any subsequent
12 hearing, grand jury proceeding, or other federal or state court proceeding involving
13 co-defendants or any other person involved in criminal activity.

14 Both the Defendant and the United States agree to request a reasonable
15 continuance of the sentencing date in order to ensure that the Defendant testifies
16 pursuant to this provision prior to sentencing.

17 c. Documents:

18 The Defendant agrees to voluntarily produce all documents, records, or other
19 tangible evidence relating to matters about which the United States Attorney's Office,
20 the Environmental Crimes Section of the U.S. Department of Justice, or law
21 enforcement agencies inquire.

22 d. Recovery of Assets:

23 The Defendant agrees to fully cooperate in the identification and recovery of
24 assets to pay restitution and further agrees that if any proceeds are in the Defendant's
25 possession or control, the Defendant will immediately relinquish them to the United
26 States.

1 e. Income Tax Information:

2 The Defendant agrees to participate in preparing a statement with the IRS,
3 United States Attorney's Office, or any other law enforcement agency setting forth the
4 Defendant's income from his participation in the charged fraud scheme. The
5 Defendant further agrees to report said income on the Defendant's tax return or an
6 amended tax return.

7 f. Notification:

8 The Defendant agrees to immediately notify the United States Attorney's Office
9 if the Defendant is contacted, interviewed, subpoenaed or requested to testify for or
10 against any other person.

11 g. Effect of Breach:

12 The Defendant agrees that if the Defendant breaches this Plea Agreement, the
13 agreement is null and void and the Defendant expressly waives the right to challenge
14 the initiation of additional charges against the Defendant for any criminal activity and
15 agrees that the United States may make derivative use of and may pursue any
16 investigative leads suggested by the Defendant's statements and cooperation.

17 This agreement does not protect the Defendant from prosecution for perjury,
18 obstruction of justice, or any other offense should the Defendant commit any crime
19 during the Defendant's cooperation under this agreement.

20 h. Waiver of Inadmissibility of Statements:

21 The Defendant agrees to waive the inadmissibility of statements made in the
22 course of plea discussions with the United States, pursuant to Fed. R. Crim. P. 11(f).
23 This waiver shall apply if the Defendant withdraws this guilty plea or breaches this
24 Plea Agreement. The Defendant acknowledges that any statements made by the
25 Defendant to law enforcement agents in the course of plea discussions in this case

would be admissible against the Defendant in the United States's case-in-chief if the
1 Defendant were to withdraw or breach this Plea Agreement.
2

3 8. Substantial Assistance:

4 The United States also agrees to furnish the Defendant an opportunity to
5 provide "substantial assistance," that is, information and assistance in the investigation
6 and prosecution of others. The Defendant agrees to meet with federal and state law
7 enforcement agents in an attempt to assist them in obtaining information that would
8 form the basis of a motion for correction or reduction of sentence to be filed pursuant
9 to U.S.S.G. §5K1.1 and 18 U.S.C. § 3553(e). The United States agrees that if the
10 United States determines that the Defendant has provided substantial assistance, the
11 United States will move pursuant to U.S.S.G. §5K1.1 and 18 U.S.C. § 3553(e) for a
12 reduction of sentence. However, the Defendant understands that whether any such
13 information amounts to substantial assistance is a determination left to the United
14 States Attorney's Office and the Environmental Crimes Section of the U.S.
15 Department of Justice.

16 a. The Defendant must provide information and assistance in the federal or
17 state investigation and prosecution of others who have the same as or greater
18 involvement than the Defendant's involvement in violations of the law.

19 b. The Defendant understands and agrees to participate in full debriefings
20 by federal and local investigative agencies about the Defendant's knowledge of illegal
21 conduct, at times and places to be decided by these agencies. The Defendant agrees to
22 provide complete, accurate, and truthful information during the debriefings. Such
23 debriefings may involve the use of a polygraph, if requested by the agencies. It is
24 understood that the Defendant may have an attorney present at the debriefings. The
25 Defendant also agrees to participate in any future court proceeding involving any
26 named or unnamed coconspirators and any other persons involved in criminal activity,
27

1 by testifying completely and truthfully. Such court proceedings include grand jury
2 proceedings, trials, and sentencing hearings.

3 c. The Defendant agrees that the United States may, at its option and upon
4 written notice to the Defendant, withdraw from this Plea Agreement or modify its
5 recommendation for sentence if the Defendant fails to provide truthful, complete and
6 honest information during debriefings, testimony before the grand jury, or any court
7 proceedings, or if the Defendant fails a polygraph examination. The determination
8 whether the Defendant has failed a polygraph examination shall be made by the Court.

9 d. The Defendant understands this agreement does not protect him from
10 prosecution for perjury, obstruction of justice, or any other offense should the
11 Defendant commit any crime during the Defendant's cooperation under this
12 agreement.

13 e. The Defendant understands further that if the United States determines
14 that the Defendant has provided "substantial assistance" and a motion is made, the
15 Court will be free to impose any sentence, even one below the applicable Guidelines
16 sentencing range and below any statutory minimum. If a "substantial assistance"
17 motion is filed, both the United States and the Defendant will be free to make a
18 specific recommendation with respect to any correction or reduction of sentence. It is
19 understood that the United States will inform the sentencing judge about the timing
20 and extent of the Defendant's cooperation.

21 f. The Defendant understands that, if the United States files a motion
22 indicating the Defendant has provided "substantial assistance," the appropriate
23 reduction shall be determined by the Court for reasons including consideration of the
24 following: (1) the Court's evaluation of the significance and usefulness of the
25 Defendant's assistance, taking into consideration the United States' evaluation of the
26 assistance rendered; (2) the truthfulness, completeness, and reliability of any

1 information or testimony provided by the Defendant; (3) the nature and extent of the
2 Defendant's assistance; (4) any injury suffered, or any danger or risk of injury to the
3 Defendant or the Defendant's family resulting from the Defendant's assistance; and
4 (5) the timeliness of the Defendant's assistance. See U.S.S.G. §5K1.1(a)(1)-(5).

5 The Defendant acknowledges that he has not completed providing substantial
6 assistance at the time of the entry into this Plea Agreement and that the United States
7 is not bound to move for a downward departure unless the Defendant provides
8 information that is fully truthful and complete and that the Defendant testifies
9 truthfully and completely at any hearing, trial, grand jury proceeding, or other court
10 proceeding if called as a witness by any party. The Defendant understands that it may
11 be necessary to continue his sentencing date in order to verify full compliance with
12 this agreement.

13 The Defendant acknowledges that if he fails to complete his efforts to provide
14 substantial assistance by refusing reasonable requests to meet with law enforcement
15 agents, by providing false information or withholding information from agents, or by
16 failing to testify completely, truthfully, and honestly, the United States is under no
17 obligation to file a motion for a downward departure pursuant to 18 U.S.C. § 3553(e)
18 or U.S.S.G. §5K1.1, and this agreement shall be considered breached and null and
19 void. The United States may then prosecute the Defendant on all available charges,
20 including making false statements and perjury.

21 9. The United States Agrees:

22 The United States Attorney's Office for the Eastern District of Washington
23 agrees not to bring any additional charges against the Defendant based upon
24 information in its possession at the time of this Plea Agreement and arising out of
25 Defendant's conduct involving illegal activity charged in the Information, unless the
26 Defendant breaches this Plea Agreement any time before or after sentencing.

1 The Defendant acknowledges and agrees, however, that for the purposes of
2 preparing the Presentence Report, the United States Attorney's Office will provide the
3 United States Probation Office with evidence of all relevant conduct committed by
4 Defendant.

5 10. Restitution:

6 The United States and the Defendant hereby stipulate and agree that, pursuant
7 to 18 U.S.C. §§ 3663, 3663A and 3664, the Court should order restitution in the
8 amounts of:

- 9 a. \$9,517,412.50 to the U.S. Department of Treasury; and
- 10 b. no less than \$57 million to the third-party broker or any subsequent
11 purchaser of the fraudulent RINS who retired them. The final amount
12 and recipient will be determined by the Court at the time of sentencing.

13 The parties agree that the restitution order should be imposed jointly and
14 severally with Defendant's conspirators. Said amount shall be due and payable
15 immediately.

16 11. United States Sentencing Guideline Calculations:

17 The Defendant understands and acknowledges that the United States Sentencing
18 Guidelines (hereinafter "U.S.S.G.") are advisory to this case and that the Court will
19 determine the Defendant's applicable sentencing guideline range at the time of
20 sentencing.

21 The parties stipulate and agree that the following guideline provisions are
22 applicable:

23 a. Offense Level:

24 i. The applicable guidelines section for the offense in this case is
25 U.S.S.G. § 2B1.1. Defendant's base offense level is 7, pursuant to U.S.S.G.
26 § 2B1.1(a)(1).

1 ii. A 24-level enhancement is appropriate because the loss associated
2 with the crime is more than \$65,000,000, pursuant to U.S.S.G. § 2B1.1(b)(1)(M).

3 iii. A 2-level enhancement is appropriate because the scheme involved
4 sophisticated means, pursuant to U.S.S.G. § 2B1.1(b)(10)(C).

5 The parties are free to advocate for any other enhancements or departures
6 under the guidelines.

7 b. Acceptance of Responsibility:

8 If the Defendant pleads guilty and demonstrates a recognition and an
9 affirmative acceptance of personal responsibility for the criminal conduct; provides
10 complete and accurate information during the sentencing process; does not commit
11 any obstructive conduct; accepts this Plea Agreement by November 20, 2015, and
12 enters a plea of guilty at the next hearing, the United States will move for a two (2) or
13 three (3) level downward adjustment in the offense level for the Defendant's timely
14 acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a) and (b), as appropriate
15 based on the Court's determination of the offense level.

16 The Defendant and the United States agree that the United States may at its
17 option and upon written notice to the Defendant, not recommend a two (2) or three (3)
18 level downward reduction for acceptance of responsibility if, prior to the imposition of
19 sentence, the Defendant is charged or convicted of any criminal offense whatsoever or
20 if the Defendant tests positive for any controlled substance.

21 c. Criminal History:

22 The United States and the Defendant understand that the Defendant's criminal
23 history computation ultimately will be determined by the Court after review of the
24 Presentence Investigative Report. The United States and Defendant have made no
25 agreement and make no representations as to the criminal history category, which
26 shall be determined after the Pre-Sentence Investigation Report is completed.

12. Incarceration:

1 The parties are free to recommend any legal sentence.

13. Criminal Fine:

4 In light of the agreed restitution obligation in this matter, the United States
5 agrees that it will not recommend a fine.

14. Supervised Release:

7 The United States and the Defendant agree to recommend that the Court impose
8 a three (3)-year term of supervised release to include (but not limited to) the following
9 special conditions, in addition to the standard conditions of supervised release:

10 a. that the Defendant provide financial information, provide copies of
11 Federal income tax returns and allow credit checks, at the direction of the Probation
12 Officer;

13 b. that the Defendant shall disclose all assets and liabilities to the Probation
14 Officer and shall not transfer, sell, give away, or otherwise convey or secret any asset,
15 without the advance approval of the Probation Officer;

16 c. that the Defendant be prohibited from incurring any new debt, opening
17 new lines of credit, or entering into any financial contracts or obligations without the
18 prior approval of the Probation Officer; and

19 d. that the Defendant participate and complete financial counseling and life
20 skills programs at the direction of the Probation Officer.

21 15. Forfeiture:

22 The Defendant stipulates and agrees to forfeit all right, title, and interest, to the
23 United States, in all property, real or personal, which constitutes or is derived from
24 proceeds traceable to wire fraud offenses in violation of Title 18, United States Code,
25 Sections 1343, 1349, including, but not limited to, the following listed assets:

- 1 a. 2013 Malibu Wakesetter, HIN: US-MB2L7065K213, Reg No: WN4449SA,
2 registered to Scott Johnson;
- 3 b. 2013 Boatmate Triple Axel Trailer, VIN: 5A7BB2433DT002077, License
4 Plate Number: 9456YB, registered to Scott Johnson;
- 5 c. 2012 Ford F-350 (VIN:1FT8W3BTXCEC95089);
- 6 d. 2013 Ford F-150 (VIN: 1FTFW1ET9DFC66167);
- 7 e. 2014 GMC Yukon XL (VIN:1GKS2MEF6ER112221);
- 8 f. Breitling Bentley GMT Midnight (COSC:2675717);
- 9 g. Edward Jones Joint-1 Account, #978-14540-1-3, held by Scott Johnson and
Kathy Johnson; and
- 10 h. Real Property: Franklin County, State of Washington, Tax Parcel Number:
11 124-052-060, Parcel A and B, as more fully described in the Information.

13 The Defendant stipulates and agrees to the entry of a money judgment as listed
14 below pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28,
15 United States Code, Section 2461(c):

16 **MONEY JUDGMENT**

17 A sum of money equal to \$1,000,000 in United States currency, representing
18 the total amount of gross proceeds obtained as a result of the wire fraud
19 offense(s).

20 **SUBSTITUTE ASSETS**

21 The Defendant understands that it is the intent of the United States pursuant to
22 Title 21, United States Code, Section 853(p) as incorporated by Title 18, United States
23 Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) to seek
24 forfeiture of any other property of the Defendant up to the value of the money
25 judgment agreed to herein.

1 The Defendant agrees to fully cooperate with the United States and take all
2 steps as requested by the United States to pass clear title to forfeitable assets to the
3 United States.
4

5 The Defendant agrees to provide the United States with all information about
6 the location of assets which are proceeds of illegal conduct as outlined in the relevant
7 conduct section of this plea agreement, and further agrees he will voluntarily turn such
8 assets over to the United States and stipulate to their forfeiture. Defendant further
9 agrees to voluntarily relinquish all right, title and interest in such assets or proceeds in
10 favor of the United States and hereby agrees to execute any and all forms and
11 pleadings necessary to effectuate such forfeiture.
12

13 The Defendant also agrees to hold the United States, and any and all agencies,
14 and their agents and employees harmless from any and all claims whatsoever in
connection with the investigation, the prosecution of charges, and the seizure and
forfeiture of property covered by this Plea Agreement.
15

16 The Defendant further agrees to waive all constitutional and statutory
17 challenges in any manner (including direct appeal, habeas corpus, or any other means)
18 to any forfeiture carried out in accordance with this Plea Agreement on any grounds,
19 including that the forfeiture constitutes an excessive fine or punishment. Defendant
20 acknowledges that all the property covered by this agreement is subject to forfeiture as
21 proceeds of illegal conduct. The Defendant waives further notice of any federal, state,
22 or local proceedings involving the forfeiture of assets the Defendant is agreeing to
23 forfeit in this Plea Agreement.
24

25 Non-Abatement of Criminal Forfeiture

26 Defendant agrees that the forfeiture provisions of this plea agreement are intended to,
27 and will, survive him, notwithstanding the abatement of any underlying criminal
28 conviction after the execution of this agreement. The forfeitability of any particular

1 property pursuant to this agreement shall be determined as if Defendant had survived,
2 and that determination shall be binding upon Defendant's heirs, successors and
3 assigns until the agreed forfeiture, including any agreed money judgment amount, is
4 collected in full.

5 **16. Mandatory Special Penalty Assessment:**

6 The Defendant agrees to pay the \$200 mandatory special penalty assessment to
7 the Clerk of Court for the Eastern District of Washington, at or before sentencing,
8 pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk to the United
9 States before sentencing as proof of this payment.

10 **17. Payments While Incarcerated:**

11 If the Defendant lacks the financial resources to pay the monetary obligations
12 imposed by the Court, the Defendant agrees to earn the money to pay toward these
13 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility
14 Program.

15 **18. Additional Violations of Law Can Void Plea Agreement:**

16 The Defendant and the United States agree that the United States may at its
17 option and upon written notice to the Defendant, withdraw from this Plea Agreement
18 or modify its recommendation for sentence if, prior to the imposition of sentence, the
19 Defendant is charged or convicted of any criminal offense whatsoever or if the
20 Defendant tests positive for any controlled substance.

21 **19. Hyde Amendment Waiver:**

22 The Defendant waives any claim under the Hyde Amendment, 18 U.S.C. §
23 3006A (Statutory Note), for attorney's fees and other litigation expenses arising out of
24 the investigation or prosecution of this matter.

1 20. Appeal Rights:

2 Defendant understands that Defendant has a limited right to appeal or challenge
3 the conviction and sentence imposed by the Court. Defendant hereby expressly
4 waives his right to appeal his conviction and the sentence the Court imposes,
5 including the restitution order. Defendant further expressly waives his right to file any
6 post-conviction motion attacking his conviction and sentence, including a motion
7 pursuant to 28 U.S.C. § 2255, except one based upon ineffective assistance of counsel
8 based on information not now known by Defendant and which, in the exercise of due
9 diligence, could not be known by Defendant by the time the Court imposes the
10 sentence. If the Defendant files a notice of appeal, a habeas petition, or other
11 collateral attack, notwithstanding this Agreement, the Defendant agrees that this case
12 shall, upon motion of the government, be remanded to the district court to determine
13 whether Defendant is in breach of this agreement; and, if so, to permit the government
14 to withdraw from the Plea Agreement.

15 21. Integration Clause:

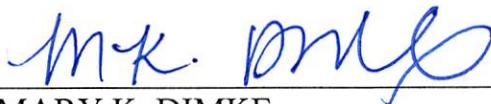
16 The United States and the Defendant acknowledge that this document
17 constitutes the entire Plea Agreement between the United States and the Defendant,
18 and no other promises, agreements, or conditions exist between the United States and
19 the Defendant concerning the resolution of the case. This Plea Agreement is binding
20 only upon the United States Attorney's Office for the Eastern District of Washington,
21 and the Environmental Crimes Section of the U.S. Department of Justice, and cannot
22 bind other federal, state or local authorities. The United States and the Defendant
23 agree that this agreement cannot be modified except in a writing that is signed by the
24 United States and the Defendant.

25 This plea agreement incorporates the attached Addendum from the United
26 States Attorney's Office for the Middle District of Florida.

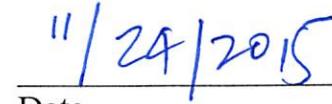
1 Approvals and Signatures
2

3 Agreed and submitted on behalf of the United States Attorney's Office for
4 the Eastern District of Washington and the Environmental Crimes Section of the U.S.
5 Department of Justice.

6 Michael C. Ormsby
7 United States Attorney

8 

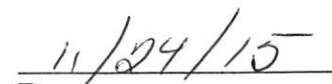
9 MARY K. DIMKE
10 Assistant United States Attorney

11 

12 Date

13 

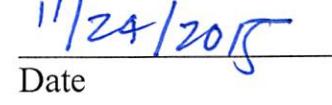
14 KARLA G. PERRIN
15 Assistant United States Attorney

16 

17 Date

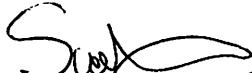
18 

19 ADAM C. CULLMAN
20 Trial Attorney
21 Environmental Crimes Section
22 Environmental & Natural Resources Division
23 U.S. Department of Justice

24 

25 Date

1 I have read this Plea Agreement and have carefully reviewed and discussed
2 every part of the agreement with my attorney. I understand and voluntarily enter into
3 this Plea Agreement. Furthermore, I have consulted with my attorney about my
4 rights, I understand those rights, and I am satisfied with the representation of my
5 attorney in this case. No other promises or inducements have been made to me, other
6 than those contained in this Plea Agreement, and no one has threatened or forced me
7 in any way to enter into this Plea Agreement. I am agreeing to plead guilty because I
8 am guilty.

9
10 
11 SCOTT C. JOHNSON

11-24-2015
Date

12 Defendant

13 I have read the Plea Agreement and have discussed the contents of the
14 agreement with my client. The Plea Agreement accurately and completely sets forth
15 the entirety of the agreement between the parties. I concur in my client's decision to
16 plead guilty as set forth in the Plea Agreement. There is no legal reason why the Court
17 should not accept the Defendant's plea of guilty.

18 
19 KEVIN J. CURTIS
20 Attorney for the Defendant

11-24-15
Date

2110 First Street, Suite 3-137
Fort Myers, Florida 33901
239/461-2200
239/461-2219 (Fax)



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United States Attorney
Middle District of Florida**

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Reply to: Tampa, FL

SCS

November 12, 2015

Re: Addendum to the Plea Agreement for Scott Carl Johnson

If the Court accepts the plea agreement to which this addendum is attached, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant Scott Carl Johnson with committing any federal criminal offenses known to the United States Attorney's Office for the Middle District of Florida at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement. It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

Respectfully Submitted,

A. LEE BENTLEY, III
United States Attorney

By:

Sara C. Sweeney
Assistant United States Attorney

By:

Robert A. Mosakowski
Chief, Economic Crimes Section
Assistant United States Attorney